

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)	
)	
Empowering Consumers to Prevent and Detect)	CG Docket No. 11-116
Billing for Unauthorized Charges (“Cramming”))	
)	
Consumer Information and Disclosure)	CG Docket No. 09-158
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170
_____)	

REPLY COMMENTS OF INTERNET BUSINESS ASSOCIATION, INC.

Internet Business Association, Inc. (“IBA”), by and through its attorneys, submits these reply comments in response to the comments submitted on the Federal Communications Commission’s (“Commission’s”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceedings.¹ IBA remains committed to the Commission’s goal of ensuring that all services billed on local telephone bills are knowingly and fully authorized by the billed customer. Based on the points raised in the comments, however, IBA is convinced that voluntary industry measures are the most appropriate method to achieve this important goal.

The record shows that the vast majority of third-party billing is legitimate and that there are important consumer benefits to third-party billing. Further, it is clear from the record that additional Commission regulations would increase the cost of LEC billing and would interfere with IBA’s ability to provide low-cost services to its customers.² Finally, LECs that permit third

¹ See *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”)*, CG Docket No. 11-116, Notice of Proposed Rulemaking, FCC 11-106 (rel. July 12, 2011) (“NPRM”).

² IBA assists small businesses with a customizable website design tool, web hosting, email services and other Internet support services. IBA’s services make it easy for companies

parties to include charges on their bills impose strict application, monitoring and remedial regimes to curb instances of cramming. These measures are effective and much less restrictive on legitimate third-party billing than many of the NPRM's more taxing proposals.

In light of the important consumer benefits of third-party billing and collection, the true scope of the problem and the potential costs of additional regulatory requirements, the appropriate focus should be on the voluntary measures that the industry has taken and is taking to reduce instances of cramming.

I. THE LECS AGREE THAT ALLEGED INSTANCES OF CRAMMING COMPRISE A TINY PERCENTAGE OF OVERALL THIRD-PARTY BILLING AND COLLECTIONS

The NPRM sets forth some evidence regarding the scope of the cramming problem³ and each instance of alleged cramming is certainly a concern that should be promptly addressed. However, the LECs, which are on the front lines of customer billing inquiries, have offered some important perspective on the alleged cramming problem. According to the LECs, the instances of alleged cramming are very small compared to total third-party charges that are placed on LEC customer bills.

AT&T has determined that “the overwhelming majority of third-party charges on its wireline bills are legitimate”⁴ and “only a tenth of a percent of its customers that were previously billed a third party charge alleged a cram.”⁵ Billing Concepts, Inc., which serves 80% of the

that are not already on the web to quickly establish a presence and to generate customers. The availability of billing through the customer's existing local telephone invoice is a key convenience for IBA's small business customers, many of whom do not have dedicated accounts payable departments and employees.

³ See NPRM, ¶ 19.

⁴ Comments of AT&T Inc., CG Docket No. 11-116 at 7 (filed Oct. 24, 2011) (“AT&T Comments”).

⁵ See *id.* at 6.

billing aggregation market, has determined that it has reduced instances of cramming to one quarter of one percent.⁶

While cramming is an important issue for the industry to address, the scope of the problem is not as broad as the NPRM portrays. The Commission should keep this perspective in mind when considering the necessity for, and scope of, regulatory requirements weighed against the effective voluntary industry practices discussed below.

II. THERE ARE IMPORTANT PRICE AND CONVENIENCE BENEFITS TO LEGITIMATE THIRD-PARTY BILLING AND COLLECTION

After establishing the proper scope of the alleged cramming problem it is also important to consider the benefits of legitimate third-party billing and collection. LECs have strong incentives to protect their customers against instances of cramming. According to AT&T, “[b]ill quality is a major driver of overall customer satisfaction and it is not in AT&T’s best interests for its long-term and valued ILEC customers to have unauthorized third-party charges placed on their AT&T bills.”⁷ Further, LECs are in the best position to know and understand the demands of their customers.⁸ LECs know that their customers do not want to see unauthorized charges on their bills, however, the LECs also understand that their customers realize important benefits from including charges for third-party goods and services on a single LEC monthly bill.⁹

⁶ See Comments of Billing Concepts, Inc., CG Docket No. 11-116 et al. at 6 (filed Oct. 24, 2011) (“BSG Comments”).

⁷ AT&T Comments at Attachment A FTC Workshop Comments by AT&T at 1.

⁸ See Comments of Frontier Communications Corporation, CG Docket No. 11-116 et al. at 3 (filed Oct. 24, 2011) (“Frontier Comments”) (LECs have a “unique understanding of their customer base”).

⁹ The incentive for LECs to permit third-party billing is not financial, but customer demand. According to one LEC, “[t]hird-party billing is not a significant revenue stream for Frontier. Rather, Frontier offers it to allow consumers the broadest choice possible in purchasing and paying for telecommunications-related products and services.” Frontier Comments at 7.

Specifically, the fact that third-party service providers do not have to set up expensive billing and collections departments means that those providers can offer low-cost services to LEC customers. In addition, LEC customers enjoy the ease and convenience of third-party billing, which allows them to pay for many different goods and services on a single bill. As an example, Verizon stated that it permits third-party charges to be placed on its bills because “customers prefer to review and pay a single bill for these services.”¹⁰ Further, Frontier confirmed that, “[t]hird-party billing offers a convenient and efficient payment method for many customers.”¹¹

Because of the cost savings that result from third-party billing and collection, without that service many third-party service providers would go out of business.¹² Therefore, if the Commission were to ban third-party billing, or impose such onerous regulations as to increase costs and effectively ban the practice, LEC and third-party provider customers would be denied the low-cost goods and services that they can currently purchase with the ease and convenience of a single monthly bill.

III. THE RECORD SHOWS THAT EXCESSIVE REGULATION WOULD RAISE THIRD-PARTY BILLING AND COLLECTION COSTS AND THREATEN THE ELIMINATION OF VALUABLE LOW-COST SERVICES

It is clear from the record that the NPRM’s proposals would increase LEC costs that would in all likelihood be passed on to third-party service providers such as IBA.¹³ IBA stated in its comments that it did not oppose the majority of the NPRM’s proposals to clarify procedures

¹⁰ Comments of Verizon and Verizon Wireless, CG Docket No. 11-116 et al. at 1 (filed Oct. 24, 2011) (“Verizon Comments”).

¹¹ Frontier Comments at 8.

¹² See Comments of Billing Concepts, Inc., CG Docket No. 11-116 et al. at 10 (filed Oct. 24, 2011) (“BSG Comments”).

¹³ IBA agrees with BSG that the Commission should carefully examine the comments of carriers regarding the costs of the Commission’s proposals to ensure that they do not outweigh the benefits. See BSG Comments at 8-9.

for the offering of blocking of third-party charges and improve the information available on telephone bills in concept, provided they could be implemented without increasing the cost of LEC billing.¹⁴ Since IBA's service offering is based on a low-cost model, which is an important part of the purpose of third-party billing, it cannot support proposals that would increase its costs and greatly impact its ability to provide its beneficial services.

With respect to providing additional disclosures on bills, including contact information for third-party service providers, CenturyLink confirms that "it must be remembered that each character and line of text adds costs to the third-party offering."¹⁵ Further, CenturyLink estimated that the additional annual cost to fully and fairly describe third-party billing and consumers' opportunity to block charges in point-of-contact disclosures would be \$3 million.¹⁶ These costs would likely be passed along to third-party service providers that cannot incorporate them into their low-cost services for small businesses and consumers.

IV. THERE ARE EFFECTIVE VOLUNTARY INDUSTRY MEASURES IN PLACE TO REDUCE INSTANCES OF CRAMMING

More than a decade ago, at the urging of the Commission, the telecommunications industry developed new anti-cramming guidelines.¹⁷ Pursuant to these voluntary efforts, in order to place a charge on a LEC's bill, IBA completes its own verification process and must also comply with the detailed requirements imposed by its billing aggregator and the LEC that issues

¹⁴ Comments of Internet Business Association, Inc., CG Docket No. 11-116 at 2 (filed Oct. 24, 2011) ("IBA Comments").

¹⁵ Comments of CenturyLink, CG Docket No. 11-116 at 15 (filed Oct. 24, 2011) ("CenturyLink Comments").

¹⁶ *See id.* at n.16.

¹⁷ *See FCC and Industry Announce Best Practices Guidelines to Protect Consumers from Cramming*, FCC News Release (rel. July 22, 1998).

the bill to the customer. This generally includes pre-screening,¹⁸ review of marketing materials, monitoring and compliance with complaint thresholds. The charge is then generally placed in a separate section of the LEC bill to avoid customer confusion. If a customer complains that he or she did not authorize the charge, then a refund is provided (generally whether or not the customer is correct) and the LEC offers the customer third-party bill blocking.

As an example, Frontier researches vendors, requires submission and approval of vendor marketing materials, requires order validation and verification procedures, and monitors complaints and law enforcement actions against vendors.¹⁹ All charges are displayed in a separate section of Frontier's bills²⁰ and every Frontier bill offers third-party bill blocking and includes a statement that customers do not have to pay disputed third-party charges.²¹ These measures are adequate to address the limited instances of unauthorized charges on LEC bills when viewed in the appropriate context of the millions of third-party charges that are placed on LEC bills each month.

¹⁸ IBA stated in its comments that “[c]arriers can and do conduct some screening of third-party vendors pursuant to the rights and terms contained in the third-party billing contracts.” IBA Comments at n.22. Such screening is very different from the NPRM’s proposal to require LECs to make an independent determination whether a third-party service provider complies with relevant state and federal laws, which raises due process concerns. *See id.* at 7-8.

¹⁹ *See* Frontier Comments at 8-9.

²⁰ *See id.* at 4.

²¹ *See id.* at 2.

In summary, based on the limited scope of alleged unauthorized charges compared to overall third-party billing (*i.e.*, a fraction of a percent), the demonstrated benefits of third-party billing for consumers and the likely costs involved in additional regulatory requirements, the Commission should focus on working with the industry to improve the voluntary code of billing guidelines, which can adequately address the limited instances of cramming.

Respectfully submitted,

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